

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 19

No. 82-5754

RECEIVED

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SUPREME COURT, U.S.

ROLF BETKA, Appellant,

vs.

STATE OF OREGON; Richard B.
Spooner; Howard Clyman, Douglas
S. Robertson; Garry R. Olson;
BOARD OF EDUCATION OF WEST LINN
SCHOOL DISTRICT NO. JJ; and
Larry G. Hibbard,

Appellees.

APPEAL FROM

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JURISDICTIONAL STATEMENT

OF ROLF BETKA, IN PRO PER
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

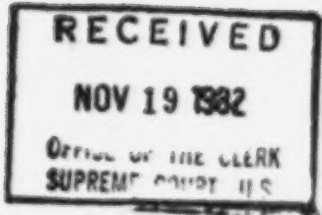


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Cases: listed on page 2,3 and 4 under Grounds of Jurisdiction of Sct.
Statutes:

Title 28-1331, 28-1343, 42-1981, 42-1982, 42-1983, 42-1985, 42-1986
Civil Rights Acts of 1866, 1871, 1964 section 601 et seq.
1968, 42-2000a 1, Civil Rights Attorney Award Act of 1976,
and Community Service Act of 1974 42 -2981 USCA

Other Authorities:

see page 2 of Jurisdictional Statement listing ORS 337.120 in full
and excerpt of ORS 337.260

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Appellant has filed Motion for Review of Fact Finding Proceedings in Distr. Court under FRCP Rule 60(b)(6) and 59(a) with notice to the Court of Appeals

GROUND'S OF JURISDICTION OF SUPREME COURT

This appeal arises from an action to redress deprivations of civil rights and recover damages. The order denying rehearing and issuing mandate of the Court of Appeals for the 9th Circ. was entered on August 20, 1982. A timely notice of appeal was filed on Sept 17, 1982 in the Court of Appeals. The jurisdiction of this Court is invoked under the provisions of Title 28-1252 United States Code.

Cases that sustain the jurisdiction of this Court include:

419 U.S. 379, 95 Sct 1340 - Fusali v. Steinberg
(Action brought pursuant to 1983 brings the whole case before the
Supreme Court under 28-1252 as well as under 28-1253)

417 U.S. 733, 41 L Ed2nd 439, 94 SCT 2547
(Appeal from "any court" includes Court of Appeals)

331 U.S. 100, 91 LEd 1368, 67 Sct 1140 - Fleming v. Rhodes
(Appeal from decision holding Act of Congress unconstitutional
as applied)

ORS 337.120 SCHOOLBOARD SELECTION, PURCHASE AND USE OF APPROVED TEXTBOOKS AND INSTRUCTIONAL MATERIAL (1) Except as otherwise provided by ORS 337.141, the district schoolboard, with the assistance of teachers and administrators of the district, shall select textbooks and other instructional materials for each grade and subject field from the multiple choice approved list. The district school board may involve citizens in the process.

Instructional material are not textbooks according to Opinion of Attorney General of the State of Oregon.

ORS 337.260 is providing that TEXTBOOKS should reflect respect for all people, regardless of race, color, creed, national origin, age sex or handicap (Instr. material as applied denied plaintiff the respect provided under "Textbooks")

2 - Jurisdictional statement

1 Colaizzi v. Walker (1976) 430 U.S. 960, 51 LEd 2nd 811, 542 F2nd 969
2 (infliction of stigma in conjunction with deprivation of property
3 is actionable under 42-1983)

4 Paul v. Davis 424 U.S. 701, 96 Sct 1160 (holding the same as above)

5 McCord v. Bailey (1980) AppDC 636 F2nd 606
6 (Action under 42-1985(2) Atty in conspiracy dissuading client not to
7 issue with perjury and false evidence. No need to show "state action"
8 or class based invidious discrimination.)

9 Orr v. Orr 1979, 99 Sct 1102, 1114, 440 US 268, 59 LEd 2nd 306
10 on remand on Civ. App. 374 So. 2nd 895, writ denied Supp 374 So. 2nd
11 898, and in which appeal is dismissed and cert. denied 100 Sct 993,
12 444 U.S. 1060, 62 LEd2nd 738(held invalid that husbands but not wives
13 could be held liable in divorce.)

14 Whitefield v. Ohio (1936) 297 U.S. 431, 80 LEd 778, 56 Sct 532, 5 Ohio
15 Ops 121(Constitutional question not raised in trial court but considered
16 by State Appellate Court falls under jurisdiction of Sct.)

17 Berg v. FCC 672 F2nd 892
18 (German-american group in solidarity with appellants peacefull action
19 in speech and demonstration was denied equal right to counter "Holocost"
20 halftruth promoted by schools and massmedia over last 40 years -
21 German-american group as well as appellant is not "Nazi"oriented.)

22 Studies by appellant revealed that american Naziparty is product of
23 Jewish interest group in Skokie, Ill to install with help of Jewish
24 Defense League State harassment laws after targeted provocation and to
25 silence any criticism of "Holocost" for the benefit of Israel.

26 U.S. v. Holy Trinity U.S. CC N.Y. 36 F 303 rev. 12 Sct 511, 143 U.S.
1 457, 36 LEd 226
2 (U.S. is christian Nation with liberty and freedom of conscience for all)

3 State v. Scheffel (1973) 82 Wash. 2nd 872, 514 P2nd 1052 app dism. 416
4 U.S. 964, 40 LEd2nd 554, 94 Sct 1984
5 (Bill of Attainder -legisl. act to inflict punishment on group or indiv.
6 without judicial trial)

7 Carey v. Population Serv. Intl. 431 U.S. 678, 52 LEd2nd 675, 97 Sct 2010

8 Pierce v. Society of Sisters 268 U.S. 510, 535 (1925)

9 Meyer v. Nabrasaka, 262 U.S. 390, 399 (1923)

10 (liberty and right of parents over that of state and above efforts
11 of "Americanisation" of foreign born population)

1 Bell v. Hood, (1946) 327 U.S. 678, 90 LEd 939, 66 Sct 773
2 (Deprivations of liberties without due process in violation of 5th
and 14th Amendmt.)

3 Murray v. Curlett, 374 U.S. 203, 10 LEd 2nd 844, 83 Sct 1560
4 State not allowed to establish a religion of secularism)

5 Sherbert v. Verner, 374 US 398, 10 LEd 2nd 965, 83 Sct 1790, U.S. Const.
6 1, 14 (Placing conditions on liberties of religion and expression is
7 infringement on 1st.)

8 Citizens conc. for seperation of church and state v. Denver (1981)
9 (Plaintiff has standing in action dealing with religion and government
under 1st Amendmt)

10 QUESTIONS PRESENTED
11

12 1) Wheather appellant is entitled under the law as it was held in
13 Livas v. Teledyne Movible Offshore, Inc. 28 FR Serv. 2nd 590, 607 F2nd
14 118 CA5 (1979)

15 that objections made or not made to the findings of the master have
16 no bearing on the obligation of the Court to determine the masters
17 findings and to find that the master was clearly eroneous.

18 2) Wheather appellant is entitled under law and principal of justice
19 to have the Certificate of Record on Appeal be transmitted in a state
20 which reflects the truth and if omissions and misstatements are dis-
21 covered and reported to the Court of Appeals under FRAP 10(e) wheather
22 the Court of Appeals has the duty to direct the Clerk of the District
23 and not a Judge of the District Court to correct the Clerks Certificate.
24 for the purpose to issue order to post cost bond first before correction
25 is made.

1 Plaintiff had initiated in the Court of Appeals under FRAP 10c proceedin
2 to include Statement of Proceeding for May 26, 1981 hearing for which
3 no transcript was available and which was not entered on the docket
4 sheet of the Clerk. This was discovered in December of 1981 and appellan
5 at that time discovered and recollected that the Clerk has discouraged
6 appellant to attend the oral argument hearing. The masters Findings and
7 Recommendations issued within days after the hearing in question and
8 had recommendaed dismissal including dismissal applied for by Summery
9 Judgment in which the defendant had submitted fraudulent affidavit and
10 appellant had objected to it by affidavit and Statement of Reason and
11 Authority also mentioned in the hearing. Findings and Recommendations
12 did not not show appellants objections.
13 Before the 10c FRAP proceeding could be concluded the Court of Appeals
14 issued their ruling dismissing appellants Motion for rehearing.
15 Subesequently hereto appellant moved for review of fact finding
16 proceedings in District Court, dtd Sept 11, 1982.

17
18 STATEMENT OF THE CASE
19

20 The facts of the case underlying this appeal are the following:
21 The West Linn School District in Concert with the State of Oregon
22 had used foreign made movies as instructional material for the specific
23 purpose of "Americanizing" appellants children during the period between
24 1968 and 1980, the years in which the children attended West Linn High.
25 Appellant is a german born U.S. Citizen since 1964, was raised in
26 Germany between 1926 and 1945 and was member of the german armed forces

1 generally referred to by the press and school over the last 40 years
2 as "Nazi" armed forces and had worked for appr. 10 years from 1945 -
3 1955 for the American Army in Germany before coming with his family
4 to the U.S. in 1955.

5 The movies complained of depicted "Germans" by their nature and
6 traditional practice of christianity as enemies of jews and of America.
7 The practice apparently was continued until appellants daughter left
8 the High School as affidavit of witness shows which had been submitted
9 with (CR 85) in support of Motion for Rehearing which had been denied.

10 The witness a Mr. Gerry Jewkes in his affidavit is stating that he
11 had witnessed a young attending West Linn High saying "that West Linn
12 High is teaching as if all Germans where enemies of the U.S. or words
13 to that effect" The affidavit is dated Aug 29, 1981.

14 Appellant also had discovered that his son had been given into the
15 car of the Highschool phycologist for having taken a stand against
16 the movie pictures and was advised according to their standards of
17 "Americanization" of my son to seperate himself from his father for
18 the sake of his future in America.

19 Over a period of years appellant had protested before the School-
20 board and having not allowed appellant to have an input on the subject
21 of "Holocost" and collective guilt of allgermans. An attempt to address
22 the teachers of the School also had been denied. In the meantime
23 appellant had introduced press releases (british and american) suggestin,
24 that the "Holocost" stories are a hoax which I had been convinced a
25 long time on account having been exposed to teachings in Hitler Germany
26 which in no way had suggested that genocide policies would have been

1 carried out as "documented" and seen over the last 40 years in this
2 country. Studying for years the subject appellant had found that the
3 atrocities at the end of the war discovered by U.S. Army was the
4 product of exellerated hate and intentional neglect of procedures
5 for which a Mr. Eichman had been brought to trial in Israel. With
6 (CR 38) had entered clipping from "Spotlight" a Washington weekly which
7 claims that socalled "Gaschambers" where built by U.S. Army in Dachau
8 Germany (West) to demonstrate how the gasing of Jews was done in eastern
9 Europe.

10 Plaintiffs son as well as appellant on account of their religious
11 believe that giving false witness or joining any hategroup is not only
12 a sin but also a restrict^{ion} on liberty and conscience as expressed in
13 U.S. v. Holy Trinity Plaintiff and son where confronted with open
14 hostility in the School, public School meeting and Lutheran Church
15 which placed conditions of plaintiffs 15 year membership in that church
16 by inquiring if plaintiff is american citizen and if he loves "jews".
17 In a public Schoolmeeting (see letter attached to CR 38) plaintiff was
18 threatened to advise son not to take media class because it would be
19 worse than the movie class.

20 After appellnts daughter started Highschool in 1976 appellant
21 lectured in the Clackamas County Comm. College on the subject of "Holoco
22 and "German collective guilt". Appellant received letter of commendation
23 (see (CR 38) and hereafter was denied to continue lecturing

24 In 1977 before becoming permantly and totally disabled under Soc.
25 Security on account of an heartailment he was client of the Oregon
26 Vocational Rehabilitation Program and in December of 1977 had to face

1 a divorce and defendant Spooner, employee of the Rehab. Dept.
2 referred appellant to def. H. Clyman to handle the divorce after
3 appellants initial pro se work in which he was awarded temporary
4 custody of his daughter with Court Order Jan 23, 1978. This Court
5 had since disappeared from the file of the Court. Clyman in conspiracy
6 with Spooner who held the same view which appellant had opposed in
7 School used the knowledge from a phycological Analazise obtained for
8 rehabilitation purposes and his position as county mental heal th advisor
9 to refer him to the Mental Health Dept in which appellant was interigated
10 as to the reason for his opposition to the teachings on "Germans" in
11 Schools and lutheran church.

12 After defendant Clyman started to work for appellant he dissuaded
13 appellant not to take issue with the disappearance of of the 1-23-78
14 Court Order and order from 2-10-78 pendente lite hearing in which
15 among others the custody issue, visitation issue, attorney fees issue
16 and issue of document in which exwife had stated that she started the
17 divorce because of appellants politics had been ordered to be dealt
18 with. None of the issues had been dealt with. On Feb 5, 1978 appellant
19 was unlawfully arrested and an unlawfull criminal process was procured
20 by the City of West Linn against appellant with trial scheduled for
21 June 21, 1978. Clyman advised that he would not represent appellant
22 and he stated that he had arranged with prosecuting City atty to drop
23 the matter. Plaintiff wanted a public trial to get to the bottom
24 of the accusations and for this reason had subpoenaed Clyman for him
25 to testify why the arrangements were made to drop the case. Instead
26 he pressured appellant as his divorce atty to sign a waiver not to

1 sue the city for malicious prosecution , abuse of process and
2 false arrest.

3 The school, Olson, and Clyman participated in the hiding of
4 appellants daughter from Dec. 77 - March of 1978 . Clyman by
5 willfully ^{did} not bringing up the custody and visitation issue in the
6 Feb 10, 1978 hearing and advising not to take issue with the disappearance
7 of the Jan 23, 1978 court order, and the document showing the political
8 cause of the divorce made out by ex-wife after she had been placed in
9 a job with the County School authority with the help of a member of
10 the lutheran church who used his position as supervisor in that agency
11 to make public defamations against appellant causing appellant to
12 make a public appearance before the County board and report the incident
13 to the District Attorney.

14 The School participated in the hiding and defeating appellants
15 fight for custody by removing a document from their file signed by ex-
16 wife however recognized by appellant to have been drafted apparently
17 by other person of lutheran church who had threatened appellant not
18 to visit his daughter in school unless he wanted to be confronted with
19 court order. This person was member of the school faculty. Appellant
20 in June of 1980 requested under the provision of the fed. Family Protection
21 Act of 74 to see all the documents in his daughters file and discovered (1
22 at that point that the document which had pretended to have given custody
23 to ex-wife by the court - in opposition to court order which had awarded
24 temporary custody to appellant - had disappeared from the school file
25 over which defendant Hibbard had custody and responsibility.

1 Criminal charges made against appellant by ex-wife had been dropped
2 in Feb 10, 1978 hearing and in October of 1978 when appellant saw for
3 the first time the Custody Report requested by him, discovered that
4 defendant Olson had continued implying these charges by testifying
5 in the Custody Report that appellant is "a very violent man".

6 Defendant Clyman before the divorce trial on Sept 22, 1978 advised
7 appellant to be absent ^{from} Delinquency support hearing after payments
8 demanded had been made and did not inform appellant that 2 Benchwarrents
9 had been issued against appellant for civil and criminal contempt. -
10 One before the trial date - . On Oct 26, 1978 appellant was arrested
11 and imprisoned - unlawfully - and had to employ outside attorney to
12 get out of prison. No bail or prompt hearing after arrest had been allow

13 In the divorce trial Clyman dissuaded appellant not to take issue
14 with perjury and fabricated evidence introduced by def. Robertson in
15 conspiracy with Clyman and Oregon Judges by allowing to have the record
16 show that \$ 1300.-- had been "drained" from bank account of family
17 which had shown a balance of \$ 1500.-- when ex-wife had left appellant
18 middle of December of 1977. Appellant had accounted for approx. 1200.--
19 expenses for necessities in Feb 10, 1978 hearing and hereafter had
20 taken out a personal loan from the bank to make support payments and
21 continue his business. By September of 1978 - the trial date - appellant
22 had approx. 3500.-- in the bank. Clymans knowledge of the balance
23 and his malicious attitude caused a judge after expiration period of
24 2 years issue new order after the case had been before the Oregon
25 Appellate Court and turned into a judgement for \$ 1,726.06 besides
26 attorney fees of \$ 225.--

1 Denying the equal protection under Oregon Law the Appellate Court
2 of Oregon had awarded ex-wife Interest on 14,000.-- affirming the
3 trial courts decree and awarded her with attorney fees in amount of
4 \$ 750.-- and H. Clyman placed a lien on appellants real property
5 in January of 1982 after appeals proceeding had been started in fed.
6 Court. The amount was \$ 2,015.00 "for services as yet uncompensated"

7 Defendant Clyman, knowing in December of 1978, that appellant, would
8 hire new attorney entered into a conspiracy with the county of Clackamas
9 to deprive appellant of his right to contract and deny him earnings
10 in the amount of \$ 7,118.-- for executed building contracts financed
11 by the federal government and constituting a vested property right
12 protected by the 5th amendment of the U.S. Constitution. To assure
13 success for their conspiracy they engaged the Oregon State Builders
14 Board in advancing the original intend of the conspiracy against
15 appellant - to stigmatizing, ostracize, & damage the person and property
16 of appellant.
17

18 Pendent jurisdiction and consolidation with State action by Clyman
19 against appellant had been applied for in Court of Appeals. The
20 judgement had been achieved by state action in violation of 14th amendmt
21 depriving appellant of right to have real property issue involving
22 attorneys lien be litigatated in county were real property is located.
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1 SUBSTANTIALITY OF FEDERAL QUESTION

2
3 This appeal presents important and substantial questions, as herein
4 after described, in that in violation of federal statute 28-1331 and
5 28-1343, Civil Rights Acts of 1866, 1871, 1964 and 1968 (42-1981,
6 42-1982, 42-1983, 42-1985 and 42-1986 and 42-2000a 1)

7 1) The West Linn School District violated fed statute 42-1983 and 1985
8 having conspired to stigmatize, ostracize and in conjunction hereto
9 denied liberty and property to appellant in conspiracy with the
10 other defendants in the case and in fed civ. 81-466 AC 82-3474 and
11 and 81-425 AC 81-3613 which are protected by the 1st, 4th, 5th, 6th
12 7th, 9th and 14th amendment to the Constitution of the United States.
13 The violations constituting "state action" protected the 14th Amendmt
14 and actions under color of state law in violation of 42-1983 purpose-
15 fully assisted by privat persons including past^r of West Linn Lutheran
16 Church, a former member of the Schoolboard, who participated in the
17 establishment of a Oregon Religion of Secularism practiced in the
18 West Linn Schools and have disadvantaged appellant children over
19 children believing in secularism (see case p 4, line 3) and pastor
20 hereafter had placed on appellant conditions on a continued member-
21 ship in the Lutheran Church. (see case p 4 , line 4)

22 The violations under 42-1985 and 1983 were continued until Dec. of
23 1981 by fed. Distr.Court Clerks having forged public papers to
24 prevent appellants appeal. The matter is reported to US Attorney
25 Turner by Criminal Complaint and Affidavit pointing to 18-241, 18-245
26 2000a1 and 18-1503 offenses as part of this case and two cases in

1 the Court of Appeals of the 9th Cir. Under 1985 the West Linn
2 School District and its principal Hibbard by removing a document
3 from their file belonging to a custody court proceeding in appellants
4 divorce conspired with def. Clyman and Olsen (Olsen having had partici
5 in hiding of daughter for a period of appr. 4 months) to impede (pated
6 justice and deny appellant the equal protection of the law. Because
7 of the conspiracy the Jan 23, 1978 Court Order, having granted temp.
8 custody to appellant, had disappeared and had affected their decision
9 in 77-12-303 - CA 13098 denying the others issues part of the 1-23-78
10 courtorder dealing with interest on 14,000 paid by appellant under
11 duress in the amount of \$ 1,443.86 and attorney fees paid under
12 duress in the amount of 750.--. Acc. to case on p 3, line 7 & 10, juri
13 is in the Supremecourt under the "whole case"doctrine".

14 2)For the fraud and deceit practiced by def. Clyman in conjunction
15 with the conspiracy as outline he was awarded a judgement in the
16 Clackamas County Court in the amount of \$ 2015.00 while the matter
17 was up for consideration in the 9th Cir.C. of Appeals on Motion to
18 consolidate it with this action.

19 3)Appellant had informed the Distr. Court with (CR 68) and the Appeals
20 Court with date Mar 2, 1982 of appellant opinion that ORS 337.120
21 is repugnant to the U.S. Constitution as applied. It is also in
22 violation of the spirit of America which is liberty and toleration
23 and guaranteed to all including freedom of conscience as expressed
24 by the Supreme Court in U.S. v. Holy Trinity (case on p 3, line 17)
25 declaring the United States a "Christian Country".

26 4)In defense of life, liberty and property appellant was unlawfully

1 arrested, imprisoned, property unlawfully seized and destroyed,
2 and denied and appellants person injured to the point of being
3 ostracized, inter alia, by his children and has to pay off a
4 a judgment awarded by fraud and conspiracy in the amount of \$ 1,726.00
5 from his only income which is Social Security Disability pay.
6
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8 ABUSE OF DISCRETION
9

- 10 1) Denial to recognize appellants constitutional claim in the complaint
11 made out by pro-se litigant and his understanding of the "short and
12 plain" statement clause of FRCP, Rule 8.
- 13 2) Denial of leave to file amended complaint before responsive pleading
14 under FRCP 15 and after Motion of defendant Olsen for dismissal for
15 Lack of Subject Matter Jurisdiction (CR 32)
- 16 3) Denial of discovery and Motion to Produce (33)
- 17 4) Denial of Motion to substitute def. State of Oregon for defendant
18 Superintendent of Public Instructions V. A. Duncan (CR 34)
- 19 5) Denial of recording of open court hearing of May 26, 1981 before
20 U.S. Magistrate Juba.
- 21 6) Denial of fundamental right to be heard on Motions (CR 77 & 78)
- 22 7) Denial of Motion to Conform to Proof of Jan 29, 1982.
- 23 8) Ordering posting of Cost Bond stating that appeal of appellant is
24 frivolous and not taken in good faith and ordering in collusion
25 with Court of Appeals that correction to false Certificate of Record
26 on Appeal will be allowed only after posting of cost bond.

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CONCLUSION

For the reasons stated above, appellant submits that this appeal brings before the Court substantial and important federal questions which require plenary consideration, with brief on the merits, for their resolution.

DATED: NOVEMBER 14, 1982

Respectfully submitted,
Rolf Beika
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